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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,807	04/17/2001	Hernan Jose Clarke	153308.90011	8491
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QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391				
EXAMINER STERRETT, JONATHAN G				
ART UNIT		PAPER NUMBER		
3623				

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/837,807

Applicant(s)

CLARKE, HERNAN JOSE

Examiner

Jonathan G. Sterrett

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Summary*

1. Claim 1 are pending in the application.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 1 is rejected under 35 U.S.C. 101 because the invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

(1) whether the invention is within the technological arts: and

(2) whether the invention produces a useful, concrete and tangible result.

4. For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, none of the claims are directed to anything in the technological arts as explained above. Looking at the claims as a whole, nothing in the body of the claims recites any structure or functionality to suggest that a computer performs the recited steps. Examiner notes that technology in the preamble of a claim is not granted any patentable weight.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention provides a method for enterprise wide planning using work cards; which is a useful, concrete and tangible result. Although the recited process produces a useful, concrete and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, Claim 1 is directed to be directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Howie US 5,093,794.

Regarding Claim 1, Howie discloses:

defining one or more work card templates (Figure 4 #10--#15 work order templates defined as data accessed from database; column 16 line 10-11, definitions of work orders as viewed);

receiving a plurality of operational work cards (column 10 line 58, list of jobs to be completed is used to generate and receive work orders);

comparing the operational work cards with the work card template (column 11 line 23-24, skeleton work order displayed is compared with template to determine missing schedule information);

adding schedule parameters to the operational work cards that match the work cards template (column 8 line 19-20, work orders scheduled according to different goals; column 11 line 40-41, user adjusts schedule parameters on work cards based on his experience and stored data);

adding expected non-routine work cards to the operational work cards (column 10 line 57-61, data taken from database adds non-routine work cards to operational work cards);

scheduling the expected non-routing work cards and the operational work cards (column 11 line 17-19, time map holds data to schedule non-routing and operational work cards);

receiving completed, suspended (column 7 line 9-11, suspended work orders received from machine breakdowns), modified (column 13 line 19-21, modified work orders resulting from rescheduling of bottleneck jobs), or non-routine work cards (column 11 line 12-13, general purpose shop has so many possibilities of types of work orders; column 15 line 63-65, non-routine work orders resulting from operational failures);

removing the completed work cards from an active work card schedule (column 16 line 25, scheduling view of system requires work orders to be completed for the work order package to be completed);

displaying each work card for a work order graphically with a task bar representing each work card (Figure 7, graphical task bars; column 10 line 67-68 work order information used to generate time map);

storing multiple work cards configuration in a first stack (column 5 line 64-65 work order lists grouped as a package);

storing multiple work cards configuration in a second stack (column 5 line 64-65 work order lists grouped as a package); and

comparing any configuration in the first stack with any configuration in a second stack (column 7 line 16-18, shop manager compares two packages to determine which gets priority);

using a critical path method to determine an overall plan (Column 5 line 66, critical path identified for package).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vacca's Feb 1992 article "Recapturing the Industrial Market. (software tools are available to enable US manufacturers to recapture markets worldwide)" discloses a factory planning software product.

US 5,099,431 by Natarajan discloses an automated re-work shop order scheduling system.

US 5,101,352 by Rembert discloses a material requirements planning system.

US 6,397,118 by Gleditsch discloses a manufacturing resource planning system designed to meet unanticipated demand.

US 5,432,887 by Khaw discloses a neural network system for factory planning.

US 6,141,647 by Meijer discloses a scheduling system for integrating business, process control and laboratory environments.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 703-305-0550. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 12-24-04

  
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